

ADAMS, J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TONY ALEXANDER,)	CASE NO. 1:06CV2181
)	
Petitioner,)	
)	JUDGE JOHN R. ADAMS
v.)	
)	<u>MEMORANDUM OF OPINION</u>
MICHELE EBERLIN, Warden,)	<u>AND ORDER RE: DISMISSING</u>
)	<u>PETITIONER'S APPLICATION FOR</u>
Respondent.)	<u>WRIT OF HABEAS CORPUS</u>
)	[RESOLVING DOC. 11]

On September 11, 2006, petitioner *pro se* Tony Alexander filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. He filed an amended Petition on November 20, 2007. (Doc. # 4)

On December 22, 2006, the case was referred to Magistrate Judge James S. Gallas for preparation of a report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.2(b)(2). *See* Order (Doc. #7).

On February 6, 2007, the Respondent filed a Motion to Dismiss or Transfer (Doc. #9) respondent's Answer / Return of Writ. Petitioner's Response was filed on February 21, 2007. (Doc. #10)

On August 16, 2007, the Magistrate Judge submitted a Report and Recommendation (Doc. 19) recommending that: (1) Respondent's Motion to Dismiss or Transfer due to a second or successive application or abuse of writ be denied; (2) there has been no need demonstrated for an evidentiary hearing; (3) there has been no error resulting in denial of fundamental fairness or

cause to hesitate due to the probability of actual innocence; and (4) the application, as amended, lacks merit in the grounds presented and thus should be denied.

Fed. R. Civ. P. 72(b) provides that objections to a report and recommendation must be filed within ten (10) days after service, but neither party has filed any such objections. Therefore, the Court must assume that the parties are satisfied with the Magistrate Judge's recommendation. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Services*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

Accordingly, the Report and Recommendation of the Magistrate Judge is hereby adopted. Tony Alexander's Petition for a Writ of Habeas Corpus, as amended, will be dismissed without prejudice. Respondent's Motion to Dismiss or Transfer (Doc. #9) is DENIED.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

September 27, 2007
Date

/s/ John R. Adams
John R. Adams
U.S. District Judge